IN THE KIGH COURT OF UTTARACNHAL AT NAINITAL

(Court's order whether the case is approved for reporting or not)

[Chapter VIII Rule 32 (2)(b)]

Description of Case

Writ Petition No. 596 (S/B) of 2001
(Old number
Writ petition No. 25491 of 1998)

Smt. Sampati Devi and others .....Petitioners.

V e r s u s

The U.P. Public Services Tribunal' Lucknow and others. .....Respondents

Approved for reporting

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Not approved for reporting

Date of Decision May 17, 2006

Initial of Judges

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(Judgement reserved)

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 596 (S/B) of 2001
(Old Number
Writ Petition No. 25491 of 1998)

Narayan Singh,
son of Chandan Singh Rawat,
resident of Village – Malli Rain Patti,
Nadaleyun, P.O. – Pauri (Since deceased).

1/1. Smt. Sampati Devi, W/o late Narain Singh.
1/2. Trilok Singh, S/o late Narain Singh.
1/3. Hemant Singh, S/o late Narain Singh.
All are residents of Village – Rayee (Nandalsyun),
P.O. – Pauri, District – Pauri Garhwal.

……..Petitioners.

V e r s u s

1 . The U.P. Public Services Tribunal, Lucknow.

2. State of U.P. through Secretary, Government of U.P. (Transport Department), Vidhan Bhawan, Lucknow.

3. The Uttar Pradesh State Road Transport Corporation, Lucknow through its Managing Director.

4. The Deputy General Manager (West Zone), UPSRTC, Defence Colony, Meerut.

5. Regional Manager, UPSRTC, Dehradun Region, Dehradun.

6. The Assistant Regional Manager, Kotdwara, District - Pauri Garhwal.

……..Respondents

Coram:
Hon'ble M.M. Ghildiyal, J
Hon'ble B.C.Kandpal, J

Heard Sri G. S. Negi, learned counsel for the petitioner and Sri Ashish Joshi, learned counsel for the respondents.

By means of this writ petition, the petitioner has challenged the judgement and award dated 31.03.1998 passed by State Public Services Tribunal, Lucknow in Claim Petition No. 239/V/1989.

The fact of the case are that petitioner was initially appointed as Driver in the year 1996 in U.P. Roadways Department and was posted at Kotdwara Depot, District - Garhwal. After Uttar Pradesh State Road Transport Corporation (hereinafter referred to as "Corporation") came into existence, petitioner continued in services with the Corporation. On 16.09.1981, when the petitioner was driving the Bus No. URM 3208 from Nazibabad to Gopeshwar and on way at Satpuli, petitioner suddenly got severe stomach pain and a local doctor, Dr. P.S. Rawat after providing him some medicines advised him for complete rest.

Petitioner reported about his illness to the Booking Clerk at Satpuli, who asked another driver Sri Chhatar Singh to drive the bus to Pauri. At Bonsal, Traffic Inspector – Sri Sultan Singh Bhandari intercepted the bus and demanded the money from the petitioner and on refusing to pay him money Sri Sultan Singh Bhandari, Traffic Inspector, lodged false report to Assistant Regional Manager, Kotdwara to the effect that the petitioner was under the influence of liquor at the time of inspection of the Bus. Consequently, petitioner was placed under suspension by the Assistant Regional Manager vide order dated 17.09.1981. The chargesheet was issued by respondent no. 5 on 19.09.1981 and served upon the petitioner on 03.10.1989. The Charge levelled

against the petitioner was that he was under the influence of liquor at the time when Traffic Inspector Sri Sultan Singh Bhandari inspected the Bus at Bonsal.

The petitioner has submitted his reply on 05.10.1981, in which he has denied the charge leveled against him. On the basis of inquiry report, respondent no. 4 passed dismissal order dated 06.03.1982 against which petitioner preferred appeal before Deputy General Manager (West Zone), Meerut, who vide order dated 20.04.1983 allowed the appeal and directed fresh inquiry to be conducted in respect of charge leveled against the petitioner and petitioner be treated under suspension with effect from 06.03.1982

Fresh disciplinary proceedings were started from the state of issue of chargesheet. The inquiry was conducted by Assistant Regional Manager and after completing the inquiry punishment order dated 11.11.1983 was passed by which petitioner was removed from services. Against the order dated 11.11.1983, petitioner preferred an appeal which was dismissed as time barred. Aggrieved with the order dated 11.11.1983 petitioner preferred a claim petition before State Public Service Tribunal, Lucknow and Tribunal vide judgment and award dated 31.03.1998 dismissed the claim petition of the petitioner.

The petitioner has challenged the aforesaid award as well dismissal order dated 11.11.1983 on the ground that at the time of inspection of bus, the bus was being driven by Sri Chhatar Singh, who was directed to ply the

bus to Pauri by the Booking Clerk at Satpuli as petitioner suddenly got severe stomach pain at Satpuli.

The Tribunal while considering this fact has recorded a finding that the story of illness was after thought because the booking clerk at Satpuli in his statement dated 18.01.1982 given in reply to the letter dated 05.01.1982 said that when the petitioner reached at satpuli he was not ill. He has also stated that he did not know who had driven the bus from Satpuli to Pauri on 16.09.1981. The Tribunal has further recorded a finding that had the booking clerk asked Sri Chhatar Singh to drive the Bus Satpuli to Pauri, he must have entered the name of Sri Chhatar Singh on the duty slip in place of petitioner but this was not done.

In the circumstances, the Tribunal has found that the story of illness has been invented by the petitioner only to safeguard him from the charge of being under the influence of liquor on duty. The petitioner has further submitted that inquiry was conducted by Assistant Regional Manager though he was not appointed as Inquiry Officer. The Tribunal after going through the record has recorded a finding that the Assistant Regional Manager was appointing Authority / Disciplinary Authority of the petitioner and it was open for him either to hold inquiry himself or to delegate power to hold inquiry by another officer.

We do not find any infirmity in the finding recorded by the Tribunal.

Learned counsel for the petitioner has further argued that petitioner was appointed as Driver by Government when he was employee of U.P. Roadways and the officers of UPSRTC were not competent to pass termination order.

The petitioner continued to be in service after the Corporation came into existence and the Officers of UPSRTC were fully competent to pass termination order.

He has further submitted that the Traffic Inspector Sri Sultan Singh Bhandari was against him, as he did not pay him money as demanded by him.

From the perusal of the record and finding recorded by the Tribunal, the petitioner himself has made a statement that when the bus was inspected by the Traffic Inspector he was sitting on the back seat because he was suffering from severe stomach pain and he could not know when the bus was inspected by the Traffic Inspector. When the petitioner himself has made a statement that he could not know when he bus was inspected, the Statement that the Traffic Inspector was against him, as he demanded money and petitioner had not paid money, which cannot be believed.

Learned counsel for the petitioner has further submitted that the petitioner was not medically examined as to whether he was under the influence of the liquor or not. Learned counsel for the respondents has brought to our notice the statement of Traffic Inspector that no hospital was available at the place of inspection of bus and the hospital, which was available, was at a distance

of 8 kms from the place where the bus was inspected and he did not think it proper to detain the bus for medical examination of the petitioner which would have caused a lot of inconvenience to the passengers who were sitting in the bus as the bus was already running with great delay. In these circumstances, the petitioner was not medically examined.

We do not find any force in arguments advanced by learned counsel for the petitioner for interference with the judgement and award passed by Tribunal.

In view of the above, writ petition is dismissed. No order as to costs.

(B.C. Kandpal, J) **(M.M. Ghildiyal, J)**

May 17, 2006
SKSharma